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NO.

IN THE

SUPREME COURT OF THE UNITED STATES

JOHN F. SALSBURY, AS PARENT, NATURAL GUARDIAN AND ADMINISTRATOR OF THE ESTATE OF SCOTT EDWARD SALSBURY,
Petitioner

vs.

SAINT VINCENT HOSPITAL, DISTRICT ATTORNEY VESHECCO, AND COUNTY DETECTIVE TROMBETTA
Respondents

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

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EDITOR'S NOTE

THE FOLLOWING PAGES WERE POOR HARD COPY AT THE TIME OF FILMING. IF AND WHEN A BETTER COPY CAN BE OBTAINED, A NEW FICHE WILL BE ISSUED.

QUESTIONS PRESENTED

Is it a violation of the United States Constitution and Federal Laws for Authorities to act under "Color of Law", to give and receive mutual aid from their associates, in an effort to cover the true nature of the death of this Nation's children?

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The opinion of the District Court attached hereto at P. App. A3 & A13

JURISDICTION

The judgement of the Court of Appeals (attached hereto at P. App. A1 & A2) was entered on January 10, 1985; the petition for rehearing was denied on February 7, 1985 (P. App. A14) The jurisdiction of this Court is invoked under 42 U.S.C. &1983, &1985 and &1986.

STATUTE INVOLVED

Federal Civil Rights Litigation 42 U.S.C. provides in pertinent part:

Suits against public official and agencies and their associates for violation of Federally Constitutional and Statutory Rights by persons acting under color of State Law.

December 29th 1979 at approximately 6:00 p.m. Scott Edward Salsbury was struck down as he and two other boys were crossing an intersection within the city of Erie, Pennsylvania.

The vehicle struck Scott at a speed of 55 m.p.h. (Appex. P. 322) The impact hurled his body down the roadway, the vehicle then ran over and dragged him to the resting point with the truck travelling over 150 feet from the point of impact. (Appex. p. 302) and (Appex. p. 322, 507, 508, 509, & 515).

As Scott lay dying in the roadway from a rib that had been driven through the center of his body, the Erie City Police refused to allow Scott to be loaded into the ambulance while his life was slowly expiring. (Appex. p. 554) and (Appex p. 596). This refusal of medical treatment was denied during the critical time known as the Golden Hour. [1]

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1. No. 856-A-1982 (S.R.D.P.) 13 Testimony of Dr. Bednarski sworn to Feb. 10, 1983. Q. Doctor, what often decides if a trauma victim lives or dies is whether definitive medical care can be provided within the first sixty minutes of injury, and this is a period of time the medical profession around the world calls the "Golden Hour." Have you heard that statement before - The Golden Hour? A. Yes, sir.

The Erie City Police contributed to the pain and suffering and death of Scott (Appex. p. 410).

When Scott did finally arrive at the hospital, he was listed by hospital personnel as being a moderate emergency (Appex. p. 595) and he lay one hour and 22 minutes in which the largest part of the time his pulse was not even taken. (Appex. p. 590)

Scott was slowly dying and had now passed twice beyond the Golden Hour, before surgeons Bednarski and Travana were called to the hospital and began to evaluate his condition, whereupon another hour and 21 minutes later after waiting for Dr. Mraz to place a pin in Scott's smashed leg, (Appex. p. 582) Scott was removed to the operating room too late to save his life.

The facts that have been amassed in this case show clearly that the hospital personnel were misinformed about the nature and severity of the accident. (Appex. p. 595, 596, 597).

It has been well documented with facts sworn to under oath that the Erie Police Officer who spoke with the hospital personnel about this accident was involved

in other matters of total deception regarding the true nature of events. This Officer personally knew for many years the driver who struck Scott and also knew members of his family. This Officer upon learning of the death of Scott went immediately to the driver's home and had left minutes before the investigative Officer arrived at the driver's home.

The Officer who spoke with hospital personnel was also engaged in a total effort to deceive the investigative Officer concerning the events of Scott's death.

Giving false information to medical personnel concerning the nature and severity of a vehicular accident purposely denies to those injured parties the rights to a chance for survival.

Speaking for the Mothers and Fathers of the children of this entire world, the acts committed in such cases constitutes willful homicide.

As the facts concerning the Police Department became known, this Father began talking with and giving evidence to FBI Agent Curry. Agent Curry felt the seriousness of the matter should require a

full investigation. Agent Curry was denied a request to investigate by his supervisor Mr. Gleason. Agent Curry suggested that this Father write the director of the FBI, Judge W. H. Webster. (See letter that was sent Exhibit #4) (See letter received Exhibit #6)

As this Father was directed, he went to the Federal Justice Department and was told by Attorney General Garhart that essentially there were no laws to protect citizens from the criminal acts of the Police and local authorities. (See Exhibit #1)

Following these events, FBI Agent Curry was transferred to New York City.

Agent Curry before leaving sent a personal letter to this Father concerning these matters.

The FBI, understanding the directive of the Justice Department never checked any of the matters in this case. (Appex. p. 516 & 602)

There has been a consistent nature between the Federal Justice Department, the District Attorney, and the Federal Courts concerning these Police matters. The District Attorney having full knowledge of the tampering of witnesses and evidence by the Police

engaged in an activity to hide this from the Pennsylvania Justice Department and continued in this deception by pleading before the Federal Courts that the District Attorney found no abuse of descretion on the part of the Officers involved.

The Courts now have had before it the sworn testimony and evidence concerning corrupted local Officials. This entire matter has been tested in our Federal Courts and Appellant is respectfully disagreeing with the position taken by the Courts. (Ref: Supreme Court Case 82-2038).

(Appex. p. 534 Veshecco Exhibit #5)

This father is certain that such acts by local authorities and their associates are in contempt of State and Federal law and in violation of the will of the people.

The serious nature of the acts committed, being fully known require consideration by the Supreme Court that those with legal power have done everything possible to prevent any kind of hearing into the death of Scott Edward Salsbury.

Respectfully, this Appellant is asking the Supreme Court to consider that the Federal Chief Judge and the State Supreme Court Judge who have sat in on a number of legal proceedings concerning Scott's death, are members of the hospital, the same as the District Attorney and as were the local Attorneys or their Firms, who were engaged in every aspect concerning the suppression of the facts concerning the death of Scott.

The pleadings by the District Attorney that were meant to purposely mislead the Federal Courts, concerning the Police matter and the missing x-rays from the hospital that were required in the investigation of Scott's death respectfully demand consideration of the following testimony:

Q. (To Veshecco Appex p. 518) Did the Barber Report state that Officer Lewandowski claimed he was not at the scene of the accident, even though his name appeared in the Police Report as having been there?

A. Yes, sir, it did.

Q. (To Veshecco Appex p. 477) . . . . James Fuhrman, Dectective Sergeant does it say there that upon arrival at the scene he found Officer Joseph Lewandowski already there?

A. Yes sir.

Q. (To Veshecco Appex p. 477) Does it go on to state . . . that he (Lewandowski) told the Private Investigator that he was not there at the accident scene.

A. Yes sir . . .

Q. (To Veshecco Appex. p. 487) Did your office talk to Mr. Schnarrs concerning the fact that he was a witness to the accident and his name did not appear on the Police Report?

A. I don't know that, Mr. Salsbury . . .

Q. (To Veshecco Appex. p. 477) Does it state that he (Schnarrs) walked up to the policeman . . . . and told him that he witnessed the accident?

A. Yes sir.

Q. (To Veshecco Appex p. 476) Does it (the Private Investigators Report) state that Officer Fulton did not question the other Eye Witnesses to the accident . . .

A. Yes sir . . . and also made no mention in his report that Curtis Salsbury had told him on the phone that it was dark and the truck was traveling with no headlights on.

Q. (To Veshecco Appex p. 476) Does it also say that Officer Fulton revealed that he personally had known the driver of the truck for several years?

A. Yes sir.

Q. (To Veshecco Appex.p. 485) I want to make it very clear, is that it says specifically that this matter was explored, and the matter that we are talking about in this letter (By Veshecco) to the State Attorney General's Office was the Police Matter, and does it say that it was explored by County Detective John Trombetta and John Ross?

A. Yes sir.

Q. (To Veshecco Appex p. 485) In this Federal Case John Trombetta said at no time was I charged with the responsibility of assessing whether or not the Officers conducted a good investigation . . . or whether there was something amiss in their investigation . . .

A. OK.

Q. (To Chief of Police, Richard Skonieczka Appex p. 263) Did the District Attorney's Office talk with you or any members of your Department that you are aware of the witnesses in the Barber Report?

A. . . . No.

Q. (To Chief of Police, Richard Skonieczka, Appex p. 260) Did the District Attorney's Office speak to you about some possible infraction or problem in this area at all?

A. .. . No.

Q. (To Chief of Police, Richard Skonieczka, Appex. p. 261) Have you been told about this witness (Schnarrs) by the District Attorney's Office?

A. No.

Q. (To Chief of Police, Richard Skonieczka, Appex p. 264) Has the State Justice Department talked with you about the events surrounding the death of Scott Salsbury?

A. No.

Q. (To Investigative Police Officer Thomas C. McDonald Appex p. 246) Are you aware that a witness to this accident has testified in this Federal Court that he went up to the Police and gave his name and address and his phone number?

A. No.

Q. (To Investigative Police Officer Thomas C. McDonald Appex. p. 246) You don't find any such witness in your report? You were not told of any such witness?

A. I was not.

Q. (To Investigative Police Officer Thomas C. McDonald Appex p. 246) No one from the District Attorney's Office spoke to you about Officers Fulton or Zahar, or the possibility that there could have been something wrong?

A. No, sir.

Q. (To Investigative Police Officer Thomas C. McDonald Appex p. 251) Has anyone from the State Justice Department ever talked to you about this case?

A. No, sir.

Q. (To Investigative Police Officer Thomas C. McDonald Appex p. 251) Has anyone from the Federal Government ever talked to you?

A. No, sir.

Q. (To Veshecco Appex p. 496) In your letter to the State Justice Department dated March 23, 1982, why did you not mention the missing x-rays?

Q. (To Veshecco Appex p. 497) Did you ever tell the Attorney General that you were a member of the hospital?

A. No sir.

Q. You do not feel that this problem with the x-rays and the fact that you are a member of the hospital may be a conflict of interest on your part?

A. I never really thought of it that way.

Q. (To Veshceeo Appex. p. 518) (In response to Officer Lewandowski's claim that he was not at the scene of the accident) Did that catch your eye when

you read (Barber) report?

A. No, sir, to be honest with you, it didn't, because I am personally familiar with the Police Officer. My understanding of where he last stood in the case when I checked it out myself, was that he admits having driven by, playing no role in anything one way or the other.

I am aware that he was contradicted, I believe, by Officer Fuhrman, I think it was. It did not catch my eye because it was not really germane to the determination I felt I had to make. In other words, he was denying any specific knowlege of anything pertinent to the accident or its investigation, and I felt I had to stop at that point; I had no place else to pursue it."

The missing femur x-rays of Scott's severely broken, twisted and shortened left leg can best be understood by the Courts, allowing consideration of the following:

Q. (To Private Investigator Ray Hipwell, Appex p. 567) Mr. Hipwell, is there any doubt in your mind that we needed the femur x-rays for the investigation of my son's death?

A. No, no doubt.

Q. (To Attorney Dana Watson Appex p. 545-546)

A. The actual damage done to the boy's body was at least, in my mind, important in determining what the car was doing at the time of the collision.

. . . and, in fact, due to the very unusual nature of this case in the sense of the difficulty of reconstructing what occured, problems with the hospital, problems with the Police Investigation and all the other difficulties attended to this case.

Q. (To Attorney Dana Watson Appex p. 548)

A. .. . . The damage or injury to the body would be an indication to considerable extent as to the speed and direction and so forth of the vehicle, and an expert could use that in possible reconstructing an accident.

Q. (To Attorney Dana Watson Appex p. 550A)

A. And the evidence I would present at a jury trial in this case, it would be my opinion as an Attorney that the better evidence would have been the doctor's testimony supported by the objective x-ray . . <u>the reason you have an x-ray is you can't really see without it</u>.

In spite of what the hospital has attempted in its deception before this Federal Court, Veshecco is a corporate member of the hospital, (Appex p. 468) His father also has direct ties to the hospital, (Appex p. 468) and Veshecco personally knows Dr. Mraz who put a pin in Scott's leg. From the day that this father realized that the femur x-rays were missing, there went forth a plea to everyone he spoke to concerning the whereabouts of the x-rays and why they were missing. This is well documented in the Federal Rights of Discovery.

Q. (To Bonnie Rossey Appex p. 562) Did the nurse tell you later that they had taken an x-ray and that they were going to put a pin in Scott's leg?

A. They told us all. We were all in the waiting room. She was directing it to us all, but I heard it.

A. (To Gilbert Salsbury Appex p. 415) When she told us he had a broken leg is when she told us she took an x-ray.

Q. (To the Manager of x-ray, Mr. Gibson Appex p. 604) Did I tell you that Dr. Mraz stated to me that the x-rays had been taken?

A. No, sir . . I know that I got that from Kathleen Eck, Medical records, when we asked about it.

(Appex p. 599) ... . Talk to Mrs. Zak, director of medical records . . . I believe she was the one who said that Dr. Mraz suggested that, for this case, there should have been or there was likely to have been an x-ray of the femur.

Appellant is begging the Court to consider the following:

The Coroner's Office was called by St. Vincent Health Center Nurse, Mrs. F. Orr, at 10:15 p.m. on 12/29/79. Hospital records showed . . x-rays were taken which showed a fractured pelvis and <u>femur</u> . . (Appex p. 520)

"*" A. (From the treating physician, Dr. Mraz, Appex p. 580) It's obvious from the records that there wasn't film taken, and it was my mistake in assuming that there was. And that is all I can say about it.

Q. (To the Manager of x-ray, Mr. Gibson Appex p. 605) . . . Would it be possible to pull a couple sheets out of there, let's say that there was an x-ray on a third sheet would it be possible to pull that sheet out of the records?

A. Yes.

Concerning the missing x-rays and the fact that District Attorney Veshecco, who has now been proven to be a member of the hospital and Veshecco also knowing in detail the facts surrounding these missing x-rays, and the extreme effort that his office has made to suppress the circumstances of Scott's death required an appeal to the Superior Court of Pennsylvania, Case No. 856-A-1982.

The day of the arguments before the Superior Court, State Supreme Court Justice Roberts was invited to sit in on this lower court hearing.

Judge Roberts is a Corporator Emeritus with the hospital.

The decision of that Court was that the treating physician, Dr. Mraz stated unequivicably that x-rays were not taken. Read the preceeding page in this brief, Dr. Mraz's statement marked "*". The same sworn testimony that is in this Federal Court concerning the missing x-rays was also available to the State Courts. All the sworn testimony of other witnesses and the statement of Dr. Mraz clearly shows until he was approached by the hospital to testify, he

felt there were x-rays taken. Again, consider his statement, (Appex. p. 580) "It's obvious, from the records, that there wasn't film taken, and it was my mistake in assuming that there was.

No Honorable Judge sitting in legal proceedings with this kind of testimony before it, can ethically submit a judgement that this doctor's statement proves unequivicably that there were no x-rays taken.

The State Court's decision continues in an effort precisely the same as those of the District Attorney, who has with clear deception committed acts meant to prevent any legal hearing into the death of Scott Edward Salsbury.

Q. (To Private Investigator Hipwell, Appex p. 167) From your knowledge was I able to gain any type of hearing that would have allowed these witnesses to testify under oath?

A. Not to my knowledge.

Q. (To Private Investigator Hipwell, Appex p. 167) Mr. Hipwell, not only as an investigator, but as a parent and citizen, does it appear that a Federal Law should be considered by our Congress that would guarantee the rights of a parent to an official hearing with witnesses concerning the death of their

children or of a child?

A. Yes.

On January 28, 1981, Dr. Bednarski replied to Attorney Watson that they had been unsuccessful in trying to locate x-rays and would give no further information. (Appex p. 596)

On the very next day, January 29, 1981, Trombetta began his hasty investigation, which he claims was sufficient to cast doubt on the Barber report. (Appex p. 298)

Trombetta's investigation was culminated as he claims by interviewing all of the witnesses in one day. (Appex p. 494) Compare this to the private investigation that took 9 months and many different experts over a period of hundreds of hours to complete.

Trombetta, working under the direction of the District Attorney, after making his one day investigation as he claims, then proceeded to make arrangements in advance for a February 5, 1981 meeting (Appex p. 294) which took place 4 working days after his claimed intensive and thorough investigation.

In this meeting, using the power of his position and the power of the office of District Attorney of

Erie County, he systematically with malice and great planning, attempted to end once and forever that which others could not accomplish and that was to prevent bringing to light the true nature of the death of Scott Edward Salsbury. (Appex p. 428 thru 435)

Q. (To Private Investigator Hipwell, Appex p. 158) Outside the office was there a comment made by (Attorney) Mr. Watson relative to Trombetta testifying against us to what he learned during his interview?

A. Yes, sir.

Q. Was that told to you by (Attorney) Mr. Watson?

A. Yes, it was. He told me just what Mr. Lucas was referring to here, that the D. A. would not now prosecute because of the fact that these people made now excellent witnesses for Mrs. Kalie and others.

Q. (To Veshecco, Appex p. 505) Are you aware that of 8 witnesses that your office has claimed to contact, 4 do not recall this happening, and the 5th states that the statement made by Trombetta that the truck travelled only 15 feet after striking Scott Salsbury was not given by him, are you aware of that? (If it pleases the

Court, Reference Appex p. 205, 367, 442, 452, 462)

Margaret Kalie, claiming to be a witness gave a false statement describing perfectly in faultness legal detail a "Dart Out Case" meeting all the requirements of Pennsylvania State Law.

Appellant is begging the Court to be mindful that the Police Officers involved, deleted the names of true witnesses and statements from the Police Report, which the District Attorney has pleaded to the Federal Courts having in his possession full knowledge of these facts, that there was no abuse of discretion on the part of the Officers involved according to their alledged investigation which has been proven never took place. Reference Veshecco's letter to the State Justice Department. (Appex p. 323 through 325)

All the legal testimony that has been given which includes the Chief of Police and the Police Investigator, (Appex p. 263 and 246) show that the District Attorney and his office have not only taken extreme measures to keep secret the true circumstances of the death of Scott, but they have willfully acted in an unacceptable manner in order to protect their

associates and this can only be done by attempting to prevent the truth from being documented in a Court of Law.

Q. (To Veshecco Appex p. 473) Now after my many letters to you about the Erie Police Department, did you or your Office talk to any of the Officers involved?

A. Yes sir, I spoke to several Officers.

Q. To the Officers involved?

A. Yes, sir.

Q. Are you aware that these Officers have sworn, either in State or Federal Court that you've never . ... You have never, or your Office has never spoke to them.

If it pleases the Court there is a need to look at the statements of false witness Kalie that was mentioned in the previous page of this brief. If we set aside all the testimony of every witness and expert involved in this case, we can consider of her total purged statements two that are most glaring. Number one, if we are to believe her statement that Scott entered the roadway from the darkened north side crossing south, he would have been struck on the right side of his body. All the medical records show that he was struck on the left side of his body and

that the measurement of all the broken bones correspond in measurement to all the projected damaged parts of the vehicle.

Secondly, Mrs. Kalie claims that Scott was given aid by 2 colored girls and the Barber Report has the statement of the girl who did give aid to Scott and her statement is supported by other witnesses.

This woman is white with long blonde hair and specifically, it has been sworn to, that there were no colored women there. What is important is the fact that the State Courts of Pennsylvania have ruled in case number 01128PGH82 that parties may give false witness to the events of a death with no recovery being permitted in a civil case, even when parties attempted to mislead Investigators at a considerable cost in time, effort and expense.

If the State Courts would have allowed any hearing into the circumstances surrounding Kalie's actions, Appellant would prove who had coached this false witness Kalie.

Q. (To Private Investigator Hipwell, Appex p. 137) Does the direction that Kalie stated coincide with the direction that we know of from your private investigation?

A. No, it does not. It is in direct opposition to what we determined to be the facts in the case.

Q. (To Private Investigator Hipwell, Appex p. 145) Besides the driver Matlock, do you know of anyone having a vested interest who could benefit from making this case into a simple dart-out?

A. . . . I would say someone did, yes. I believe it would have solved a lot of problems and saved a lot of time and effort if it could have been proven that it was a simple dart-out case.

The Law Firm that represented false witness Kalie in State Case #01128PGH82 did so free of charge, (Appex p. 213, 214) This law firm is associated with the hospital and their major client, whose Insurance Firm they really intended to protect in this case, is an officer of the hospital corporation.

During the short period of time following the death of Scott, which has now been called "Events of Conspiracy" Attorney Will Schaaf, representing Appellant engaged Private Investigator Barber, Inc. to begin an investigation concerning the events that lead to the death of Scott Edward Salsbury.

Initially, Attorney Schaaf knew that the driver was driving at night without lights, (Appex p. 398) and while Private Investigator Barber had begun an investigation and had interviewed witnesses that began to support what Attorney Schaaf already knew there came a time when Attorney Schaaf without consulting the Private Investigator or waiting for his final report, very strongly told this Appellant that he did not have a case and that he should forget the whole matter. (Appex p. 404)

The record shows that Attorney Schaaf was the first of many who had knowledge and who attempted to end the matter by legal intimidation or as in the case of the district Attorney and his staff suppression by the power of office.

Appellant is respectfully asking the Court to consider, the reason a highly intelligent and extremely skilled attorney, who after setting a case in motion by seeking a private investigation would be so quick to react as Mr. Schaaf did so early in the beginning of the case without having all of the facts. Respectfully consider the statement of this case and then look to the relevancy to question (Appex p. 405)

The senior members of Attorney Schaaf's Law Firm are connected to the higher echelon supervision of St. Vincent's Health Center.

The reasons the Health Center has given for the dismissal of all the Police Officers in their employ at critical times in the beginnings of this case do not fit entirely with investigations done in this matter.

This case has shown that the hospital supervision and their associates are completely devoid of ethics and this Police matter can only be resolved by discovery under the full supervision of the Court.

All of the men in this case associated and being members of the hospital constitute one of the most powerful legal forces in the Commonwealth of this State. These men cannot plead that they had no knowledge, for it is very clear that they have put aside their sworn duty and ethics and have acted in and for a common cause, and their purpose was to deceive others however necessary and prevent any legal hearing into the death of Scott Edward Salsbury.

Q. To Trombetta (Appex p. 305) (reconstruction Eng. Report) . . . All I'd ask is if that information was in front of you?

A. Yes, The information is there.

Q. To Trombetta (Appex p. 302) . . . This report that was in your file . . . The force to so severe this organ had to be in the range of fifty plus miles per hour.

Q. To Dr. Bednarski (Appex p. 596) . . . The first rib was broken and that was indicative of severe force . . .

A. That is correct.

Q. To Veshecco (Appex p. 504) If the x-rays showed the bone was broken into many small pieces and if a professional medical expert stated that this was indicative of severe impact, would your office consider this as legal, physical evidence?

Hospital Counsel "I'm going to object to the form, because there was no x-ray taken.

A. Veshecco (Appex p. 504) . . . The case would not have supported a theory that would show that there was some massive impact which led to such destruction of the femur.

Q. To Veshecco (Appex p. 504) Then, of course, we would have needed the femur film to refute that.

Q. To Veshecco (Appex p. 505) Is that correct? To refute the statement that you've just made?

Q. Dr. Bednarski (state case #356-A-1982) Instead of a simple break, was it in many parts?

A. yes . . .

Q. The bone, being broken into multiple parts, what would this mean?

A. Being broken into multiple parts, would be more significant of greater impact.

A legal hearing of any kind that would have locked into the death of Scott Edward Salsbury, would have spotlighted questions of grave concern regarding St. Vincent Health Center. To prevent this, Veshecco and Trombetta, while acting under Color of Law and with those parties of special interest have put forth their purpose.

Whether powerful men acting on behalf of their common cause will be permitted to continue manipulating the truth concerning the true nature of the death of this Nation's children, rests now with the Supreme Court of the United States.

December 20, 1982 petitioner filed an action for compensatory and punitive damages. A trial by jury was demanded, also petitioner requested injunctions and declaratory judgements (Appex p. 1 through 6)

January 12, 1983 St. Vincent Health Center filed a motion to dismiss under Rule 12 (b) and a motion for summary judgement under Rule 56 (Appex p. 7 through 9)

January 18, 1983 defendants St. Vincent Health Center was ordered by the Court to file a brief by January 25, 1983 (Appex p. 10)

January 22, 1983 petitioner entered arguments against defendatns motion for dismissal and against motion for summary judgement (Appex p. 15 through 19)

January 25, 1983 defendant Health Center entered a motion which included a request of the Court the right to depose Plaintiff and the officials at St. Vincent Health Center (Appex p. 23) No. 4 and 5.

January 28, 1983 the Federal District Court granted defendant's motion for discovery. (Appex p. 26.

January 28, 1983 petitioner entered a motion concerning evidence discovery and asked the Court to allow a plaintiff the same right. (Appex p. 28) No. 4.

February 1, 1983 petitioners motion requesting the same rights to discovery was denied by the District Court (Appex p. 34)

February 2, 1983 petitioner appealed to the Third Circuit Case No. 83-5099, requesting an equal access to justice concerning how discovery was to be given. (Appex p. 45 and 46)

May 24, 1983 the Third Circuit dismissed case 83-5099 for want of appellant procedure.

Juny 14, 1983 the Third Circuit denied motion for stay of mandate of judgement.

Appeal from judgement of the lower courts was entered before the Supreme Court of the United States Case No. 83-15.

QUESTION PRESENTED: Is it a denial of equal access to justice, for the Federal Courts, to allow a Defendant the rights of discovery, which includes deposing for the record as many of their witnesses as they choose, while denying the Plaintifff any of these

same rights, which should serve to maintain Plaintiff's rights before the Court?

The Supreme Court denied this appeal for equal access to justice and it is important that the Court in considering res judicate, note that while discovery was being granted to a defendant concerning matters before the Supreme Court of the United States these same rights were being summarily denied the petitioner as Cases No. 82-2038 and No. 83-15 stood side by side in reference before the October 1983 term of the Supreme Court of the United States.

October 24, 1983 having returned from the Supreme Court notice of taking deposition was served and this case was allowed to continue. (Appex p. 48 and 49).

October 31, 1983 motion to accept evidence from petitioner was entered to the District Court (Appex p. 50)

June 28, 194 the testimony and evidence that is now before this Court was submitted in its entirety to the District Court. (Appex. p. 52 through 610)

June 5, 1984 motion from petitioner that discovery was sufficient to allow the Health Center to enter its pleadings. (Ref. B and D. Appex p. 529)

June 8, 1984 District Court ordered the Health Center to file a brief in support of its motion before June 15, 1984 (Appex.p. 531).

June 19, 1984 the Health Center did not file a brief as ordered but chose to file a partial record from state case no. 856-A-1982 in support for dismissal. (Appex p. 532)

June 21, 1984 a motion was made by petitioner that the complete record from state case no. 856-A-1982 be entered. (Appex p. 533) This motion was never answered by the District Court.

June 25, 1984 petitioner's response to the Court Order dated June 8, 1984 (Appex p. 531). Petitioner stated that a brief as ordered by the Court in opposition to Defendants brief could not be maintained, since the Defendants failed to comply with the order of the Court (Appex p. 534 and 535).

June 28, 1984 petitioner entered an affadavit exactly as Defendant Health Center had entered but with complete testimony from State Case No. 856-A-1982. (Appex p. 536) This affidavit by petitioner was denied

entry into the docket record without a decision by the District Court and approximately one month later was returned to petitioner.

July 2, 1984 response by Defendants to petitioner's motion regarding the record from State Court Case No. 856-A-1982. Following defendants response the record was still refused entry by the Courts and sat somewhere in the Federal Court House until it was returned approximately one month later. (Appex p. 538)

July 24, 1984 after careful consideration, IT IS ORDERED that Defendant's motions to Dismiss are GRANTED and Plaintiff's Complaint is DISMISSED. Glenn E. Mencer United States District Judge.

January 3, 1985 on appeal to the Third Circuit case no. 84-3491 a motion requesting that testimony taken under oath in State Case No. 856-A-1982 be permitted as part of record. The motion was denied as submitted to GIBBONS, SLOVITER and VAN DUSEN, CIRCUIT JUDGES.

January 14, 1985 Case No. 84-3491 submitted before GIBBONS, SLOVITER, and VAN DUSEN, CIRCUIT JUDGES. Prior litigation growing out of the same transaction, the investigation of the death of Scott Salsbury, has

terminated in final judgments in favor of the defendants in this action. Thus this case is barred res judicata.

It is ORDERED and ADJUDGED that the judgment of the District Court is affirmed.

February 7, 1985 petition for rehearing Case No. 84-3491 was submitted before, ALSISERT, SEITZ, ADAMS, GIBBONS, HUNTER, WEIS, GARTH, HIGGINBOTHAM, SLOVITER, and BECKER, Circuit Judges, and VAN DUSEN, Senior Circuit Judge. The petition for rehearing is denied.

February 15, 1985 motion for the stay of mandate of judgment was submitted by Appellant.

A. The decisions of the Lower Courts require the supervision of the Supreme Court of the United States.

The decision of the Lower Courts should be reviewed by the Supreme Court because:

The Defendants, St. Vincent Health Center in the District Court had stated to that Court that the pleadings by the Plaintiff were not true, and that they were going to depose all of the Supervision of the hospital to support their claim that this case should be dismissed. (Appex p. 29)

The Plaintiff entered a motion to the Court that if such discovery was going to be permitted to the Defendants, St. Vincent Health Center, that the Plaintiff should be allowed the same rights to enter sworn testimony and evidence to counter the hospital's position that their supervision's testimony would be cause for dismissal. (Appex p. 28 #4)

This right was denied and the Courts will find that this was appealed to the Third District Court, Case #83-5009, and to the Supreme Court Case #83-15. (Appex p. 46)

The Federal Courts should allow that the very principle of justice must allow the gathering of

facts to support the case of a Plaintiff. In this case, the Court will see that Appellant was required to appeal the decision at both of the Lower Courts, that the District Court was going to allow St. Vincent Health Center to depose their supervision, who were not disinterested parties to swear that certain facts were not true, while at the same time denying any rights to a Plaintiff to submit evidence and sworn testimony against this kind of arbitrated decision. (Appex p. 28 #4)

In this case, Appellant filed to the Supreme Court of the United States that this was unequal access to justice. The Supreme Court did not act upon this appeal, but this case shows that 90 days of discovery was given to Appellant, but not by the Courts. The issues in this regard stemmed solely upon pressure of the context of the appeal for an equal access of justice, and the facts in this regard will stand on their merits.

The facts now show that the hospital did not call their supervision to swear to whatever it was that they intended in this case, for by now, everyone involved was aware that Appellant had in his possession the evidence to prove everything that was in his pleadings.

Where there is a danger of prejudice - The Court should take strong counter veiling consideration. 28 U.S.C.

This case now came back from the Supreme Court, and although the pleadings of the Plaintiff were very clear, there was no ruling upon the Defendants motions to dismiss, so that this case was allowed to go forward with limited discovery and it is very important that the Court note that at this time this case was not barred by res judicata.

The Court very clearly had before it at this time the position of the Defendants and their pleadings, but instead asked St. Vincent Health Center to enter their brief in support of their arguments for dismissal, which none of their eight motions to dismiss included their arguments that it was barred by res judicata.

The hospital, rather than file a brief as ordered by the Court, in support of their arguments for dismissal, chose instead to enter an affidavit in support of dismissal based upon selective testimony that they chose to enter from State Court Case No. 856-A-1982. Since the hospital had entered only that portion of the testimony which did not show conspiracy

on their part, Plaintiff immediately filed with the Court an Affidavit identical to the Defendants, but in support of arguments against dismissal, based upon all of the testimony that was given. (Appex p. 536)

The Court accepted the affidavit of the Defendant, St. Vincent Health Center, along with the testimony that they chose to enter, and this was entered on the docket which meant that it became part of record. When Plaintiff filed a similar affidavit, with testimony which proved conclusively that there was a conspiracy, the Courts refused to enter this affidavit, not only on the docket, but refused to accept it as part of the record. This is clearly a continuation of an unequal access to justice, which can be readily seen if cases #82-2038 and 83-15 are reviewed.

When the Plaintiff's affidavit was entered into Court, June 28, 1984, the depositions and interrogatories which amounted to 10 exhibits were copied and bound on new paper, when the exhibits were denied entry into the record and returned, Appellant found that each exhibit had folded pages which clearly showed that someone in the Courts had reviewed Plaintiff's affidavits.

The Third District Court has continued the position of the District Court in disallowing the affidavit of Plaintiff.

In viewing all the limited discovery that has been taken and considering the position that the Courts have taken, it must be carefully considered since the District Court did not immediately dismiss on the pleadings of res judicata, whether the Court felt this Plaintiff could not prove his case, because the Court did allow this to go forward, and under very difficult circumstances, that are not acceptable, made a decision at a later date under the circumstances which have been clarly an unequal access to justice.

The argument being here that conspiracy in itself when committed by those acting under "Color of Law" subject every citizen in theory to an unequal access to justice.

Concerning the docket record, the Court is well aware as are the defendants, that any type of pleading or answers to pleadings, must be filed with the clerk. The Defendants in this case engaged in an activity where they were allowed to write letters to the Judge concerning this case, by-passing the clerk. (Appex p. 539)

This can be seen as part of the Lower Court record and clearly indicated that a Pro Se Plaintiff does not have equal standing with the Federal Judges.

This case does bear the same set of circumstances and events that have been put before the Supreme Court of the United States, Case #82-2038, (Appex p. 534)

However, if the Supreme Court finds that Defendant Veshecco has brought this conspiracy into the pleadings in the prior judgments of the Courts, then this Court must find Res Judicata unfair in this case for the prior decisions of the Courts itself were biased by the very foundation of this conspiracy.

This in itself is an act in furtherance of the object of the Conspiracy.

Also, the Court will find that the very success of this conspiracy by the Defendants in this case has been equal to their ability to affect or deny Appellant rights to legal counsel. (Appex p. 158 & 404)

Following the Supreme Courts decision, Case #82-2038, the News release by the District Attorney's Office, (Veshecco Exhibit #5 Appex p. 534) was that the Supreme Court has ruled that Veshecco committed

o errors in the Salsbury case. (Appex p. 466 and 467)

However, if the finding of facts show that the efendants acted in Concert in an effort to suppress he true nature of the death of Scott Edward Salsbury hen in the case and question at issue; whether power- ul men may act to cover the true nature of the death f this Nation's children, justice must prevail and the ourt should consider that mistakes of a pleader must ot defeat substantial justice. Federal Rule Civ. Proc. ule 8 (F.U.S.C.A.)

42 U.S.C. &1983

A private party may be reached through a conspiracy heory, provided the party acts in concert with an gent who acts under color of law. Dennis v. Sparks, 6 L.Ed.2d 185 (1980); Briley v. State of California, 64 F.2d 849 (9th. Cir. 1977); or the deprivation is ue to government custom, Adickes v. S.H. Kress, 398 .S. 144 (1970).

42 U.S.C. &1985

Under this provision there has in this case been conspiracy with intent of depriving directly persons equal protection of the law and equal privileges of ne laws.

When Veshecco carried his pleadings into the ederal Courts, the deception intended in these leadings were an act in furtherance of the object of he conspiracy and that these acts caused actual eprivation of federally protected rights.

42 U.S.C. &1986

Veshecco and the Federal and State Judges who ave participated in legal proceedings concerning the rue nature of the death of Scott are members of the ospital, they had knowledge and had the power to revent continued violations covered by &1985 and fail o do so.

In all cases legal proceedings were disposed f favoring the legal security and the protection of aking known the culpability of the hospital.

The limited rights of discovery in this case upports &1983, &1985, &1986.

Misuse and Improper execution of the Judicial rocess is clearly evident in this case.

The interpretation and analysis of the administration of Justice in this case will have lasting impact upon the rights of all the citizens in these United States.

CONCLUSION

For all of the foregoing reasons, petitioner requests that the petition for writ of certiorari be granted.

Respectfully submitted,

John F. Salsbury
7246 McGill Road
Harborcreek, PA 16421
(814) 899-2071

UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

No. 84-3491

JOHN F. SALSBURY, as Parent, Natural Guardian and as Administrator of the Estate of Scott Edward Salsbury

v.

SAINT VINCENT HOSPITAL, DISTRICT ATTORNEY VESHECCO AND COUNTY DETECTIVE TROMBETTA

(D.C. Civil No. 82-290)

ON APPEAL FROM UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

(Hon. Glenn E. Mencer, District Judge)

Submitted Under Third Circuit Rule 12 (6)

January 10, 1985

Before: GIBBONS, SLOVITER, and VAN DUSEN, Circuit Judges

QUINN, GENT, BUSECK and LEEMHUIS, INC.

JOHN M. QUINN, SR.

JOHN M. QUINN, JR.

1400 G. Daniel Baldwin Building

Erie, PA 16501

torneys for Appellee, St. Vincent Health Center

JUDGMENT ORDER

John F. Salsbury, as parent and natural guardian d administrator of the estate of Scott Salsbury, peals from a judgment dismissing his complaint ainst St. Vincent Health Center, District Attorney shecco and County Detective Trombetta. Prior tigation growing out of the same transaction, the vestigation of the death of Scott Salsbury, has rminated in final judgments in favor of the fendants in this action. Thus this case is barred res judicata.

It is ORDERED and ADJUDGED that the judgment the District Court if affirmed.

BY THE COURT,

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

HN F. SALSBURY, as Parent
i natural guardian of Scott
ward Salsbury and Administrator
the Estate of Scott Edward Salsbury,
Plaintiff

v.

INT VINCENT HOSPITAL,
strict Attorney VESHECCO,
i County Detective TROMBETTA,
Defendants

Civil Action No.
82-290 ERIE

ORDER

AND NOW, this 8th day of June, 1984, after nsideration of Plaintiff's Motion to Direct Defendant, . Vincent Health Center, to file a brief in support its Motion to Dismiss,

IT IS ORDERED that said Motion is GRANTED and the fendant, St. Vincent Hospital shall file a brief in pport of its Motion to Dismiss on or before June 15, 84. Plaintiff to file a response brief in opposition or before June 29, 1984.

United States District Judge

: John F. Salsbury
John M. Quinn, Sr., Esquire
Timothy J. Lucas, Esquire

N F. SALSBURY, as Parent
Natural Guardian of
tt Edward Salsbury

vs.

nt Vincent Hospital
trict Attorney Veshecco
nty Detective Trombetta

IN FEDERAL COURT

No. 82-00290 Erie

And now, this 20th day of December 1982,
n F. Salsbury as Parent and Natural Guardian of
tt Edward Salsbury, from here on referred to as
intiff, files the following complaint against
endants alleging violation of civil rights
icle 14 Section 1 of the United States Constitu-
on, pursuant to Congressional enacted 42 U.S.C. &1983.

In the case of missing, physical evidence, relating
the death of Plaintiff's son and the rights of a
ent to freely investigate the death of their
ldren to prepare for their states rights in Court
hout being impeded by local authorities and their
ociates.

The Plaintiff is an individual residing at 7246
McGill Road, Harborcreek, Pennsylvania.

. The Prosecutor's office is the Chief Law Enforcement Agency of Erie County.

. The County Detective works under direction of the Prosecutor's office.

. The District Attorney is associated with St. Vincent Hospital.

. The Defendant's acts leading to the violation of rights under 42 U.S.C. &1983, constitute a conspiracy with the intent of depriving Plaintiff of his rights as guaranteed under Federal Law.

(a) The District Attorney's office and the District Attorney himself were aware of missing x-rays that were taken of Plaintiff's son's femur that were needed as physical evidence by experts hired by Plaintiff.

(b) The hospital has denied having taken any such x-rays and the records, that were obtained under Rights of Discovery in Case No. 856-A-1982, do not fully support what occurred December 29, 1979.

(c) The District Attorney's office has tried to discredit the private investigation that was done for Plaintiff.

(d) The District Attorney's office attempted to destroy Plaintiff's rights to counsel.

(e) The District Attorney's office became mentally abusive to Plaintiff.

6. The act of withholding x-rays from Plaintiff is an act in furtherance of the object of this conspiracy.

7. The failure to report and to act upon this information, as required by law, is a continuation and furtherance of this conspiracy which was intended to cause actual legal injury and deprive Plaintiff of Federally protected rights.

Article 14, Section 1 of the United States Constitution provides that:

"All persons born or naturalized in the United States, and subjects to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No state shall make or force any laws which shall abridge the privileges or immunities of

the citizens of the United States; nor shall any State deprive any person of life, liberty, or PROPERTY, without due process of law; nor to deny to any person within its jurisdiction the EQUAL PROTECTION of the laws."

To implement this constitutional provision, the Congress of the United States has enacted 42 U.S.C. &1983 which provides:

"Every person who, under power of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbus, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the DEPRIVATION of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress . . . . . "

PURSUANT TO PLAINTIFF'S RIGHTS UNDER THE LAWS OF THE UNITED STATES

Further Private Investigations and Rights of Discovery in Case No. 856-A-1982 propound the following:

(a) From the Official Coroner's Investigation and report this statement: X-Rays were taken which showed a fractured pelvis femur.

(b) Testimony has been given that states the x-rays were taken.

(c) It is not believable that there was not time to take an x-ray, as put forth as a defense by St. Vincent Hospital, because Scott Salsbury lay conscious one hour and twenty-two minutes while under direct hospital care and an additional hour and twenty-three minutes after the arrival of the surgeon and before being taken to O.R., where he expired.

(d) The hospital has taken a defense that is meant to cover what has occurred concerning the femur x-rays. In good faith and by law, this organization should have been concerned about relating easily recognizable facts to the proper authorities concerning a child's medical records that have been tampered with.

(e) Three weeks after the death of Plaintiff's son, a person impersonating the father of Scott Salsbury was involved in a conspiracy concerning these x-rays.

(f) At the same time that there was an impersonation and a conspiracy relating to the x-rays, there came a witness who gave a great number of false statements which were falsely contrived with the help of others. This false witness was used in an attempt to impede Plaintiff's rights and to govern the effectiveness of completely remove his rights to counsel. The evidence is undeniable in this matter.

(g) Attorney Dana Watson, in testifying to a meeting, of which he was a party in the District Attorney's office, February 5, 1981, summed it up with this statement: "I hope they have a good reason for doing what they have done."

The Defendants clearly have attempted to deny Plaintiff of his rights, and by their actions have attempted to cover the true nature of the events

surrounding Plaintiff's son's death. The District Attorney was aware of the missing x-rays and he also knew of the importance of this physical evidence. Rights of Discovery have shown that he never questioned those involved concerning this matter which would have embarrassed the hospital. This became a very secretive issue. His actions in this regard are a further continuation of the actions of his office which are legally unacceptable, but are certainly in line with the course of action which he has been committed. The removal of x-rays from Plaintiff is consistent with the intent and actions that are related in Federal Case No. 82-167 which is on appeal Case No. 82-5586.

I. That Plaintiff has spent in excess of $35,000 (thirty-five thousand dollars) to secure his rights and that his expenses are continuous in nature.

II. Plaintiff has addressed this matter to the State of Pennsylvania. The State has not provided protection or secured Plaintiff's rights guaranteed under Article 14 of the Constitution of the United States.

III. That Plaintiff's rights to the access of the Courts is a right guaranteed under 42 U.S.C. &1983 and cannot legally be impeded by authorities or their associates acting under color of law in denying these rights for whatever Defendants reasons.

IV. That Plaintiff's rights in pursuit of facts and evidence to establish and maintain a wrongful death suit or any other Court action is pursuant to Pennsylvania law and is clear and cannot legally be impeded by authorities or their associates acting under color of law in denying these rights for whatever the Defendants reasons.

Plaintiff had to endure and maintain unreasonable effort and expense to pursue his rights, Defendant's acts are actionable under 42 U.S.C. &1983.

V. Plaintiff maintains that Defendants have tried to remove those rights guaranteed to parents under law and that the sensitivity of this nation, concerning a parent's rights, will not be denied.

WHEREFORE, PLAINTIFF demands judgment from the Defendants in an amount in excess of $10,000 on each action for compensatory and punitive damages.

ALSO, PLAINTIFF is asking the Courts for Injunctions and Declaratory Judgments.

Respectfully submitted,

John F. Salsbury
As Parent and Natural
Guardian of Scott
Edward Salsbury

Harborcreek, PA 16421
(814) 899-2071

Plaintiff, Pro Se

A Trial By Jury Is Demanded.

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOHN F. SALSBURY, as Parent and natural guardian of Scott Edward Salsbury and Administrator of the Estate of Scott Edward Salsbury, Plaintiff	:	
v.	:	Civil Action
SAINT VINCENT HOSPITAL,	:	No. 82-0290
District Attorney VESHECCO,	:	Erie
and County Detective, TROMBETTA, Defendants	:	

ORDER

AND NOW, this 24th day of July, 1984, after careful consideration, IT IS ORDERED that Defendants' Motions to Dismiss are GRANTED and Plaintiff's Complaint is DISMISSED.

United States District Judge

UNITED STATES COURT OF APPEALS FOR
THE THIRD CIRCUIT

No. 84-3491

JOHN F. SALSBURY, as Parent and Natural Guardian
of Scott Edward Salsbury

v.

ST. VINCENT HOSPITAL,
DISTRICT ATTORNEY VESHECCO AND
COUNTY DETECTIVE TROMBETTA

JOHN F. SALSBURY, as parent and natural guardian, and as administrator of the estate of SCOTT SALSBURY,
Appellant

SUR PETITION FOR REHEARING

Present: Aldisert, Cheif Judge, SEITZ, ADAMS, GIBBONS, HUNTER, WEIS, GARTH, HIGGINBOTHAM, SLOVITER and BECKER, Circuit Judges, and VAN DUSEN, Senior Circuit Judge

The Petition for rehearing filed by Appellant in above entitled case having been submitted to the Judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for

rehearing, and a majority of the circuit judges of the circuit in regular active service not having voted for rehearing by the court in banc, the petition for rehearing is denied.

Dated: February 7, 1985

By the Court,

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

February 20, 1985

No. 84-3491

John F. Salsbury, et al,
Appellant

vs.

ST. VINCENT HOSPITAL, etc.

Present: GIBBONS, SLOVITER and VAN DUSEN,
Circuit Judges

Motion for stay of mandate denied.

March 1, 1985 By the Court,